

PUBLIC VERSION

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**Re: SECTION 201 INVESTIGATION OF IMPORTS OF STEEL
Carbon Flanges and Fittings (Product 22)**

Response Comments of Allied Fitting

These response comments on what action the President should take under Section 203 of the Trade Act regarding carbon and alloy flanges, fittings, and tool joints (product group 22) (hereinafter, "flanges and fittings") are submitted on behalf of Allied Fitting Limited Partnership, a master distributor of flanges and fittings in the United States. These comments supplement those submitted by Allied on January 4, 2002.

Import restrictions on flanges and fittings are not warranted by the condition of this industry and market (including importer inventory levels, notwithstanding assertions by the domestic industry to the contrary). Allied would like to emphasize, however, that it can continue to operate only if the President imposes a tariff rate quota or straight tariff of not greater than 13% and *provided that NAFTA countries are included*, as the ITC recommended. A 13% (or even lower) tariff combined with exclusion of Canada and/or Mexico would be preclusive of imports and consequently would put Allied out of business.

Respectfully submitted,


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ANY REMEDY MUST INCLUDE NAFTA SUPPLIERS OR ELSE IT WILL BE
PRECLUSIVE OF NON-NAFTA IMPORTS

- If the President imposes a remedy on flanges and fittings, that remedy *must* include NAFTA suppliers, as a majority of the Commission recommended. The exclusion of Canada or Mexico would make the 13% tariff recommended by the ITC--or, indeed, even a much lower tariff--**preclusive** of imports for Allied or any other importer from non-NAFTA suppliers. If two of the five largest suppliers to the U.S. market can import free of additional duties, other suppliers would effectively be embargoed from the market. The tariff level would need to be very significantly reduced to avoid embargoing non-NAFTA imports. Also, the fundamental goal of any Section 201 remedy -- to help the domestic industry -- would be completely thwarted if Canada and Mexico were excluded, since Canada and Mexico are both significant suppliers of these products. *See* ITC Final Report (Commission Views) at 187-88.
- Regardless of how the ITC responds to the recent request by the President for additional findings, it is an immutable fact that the ITC's injury determination specifically found that NAFTA imports "account for a substantial share of the total imports and contribute importantly to the serious injury." ITC Final Report at 1. Thus, any remedy that excludes NAFTA imports would lack a factual foundation in the injury finding and thus be unlawful. Moreover, given the explicit findings of the ITC that Canada and Mexico contributed importantly to the injury, the President would violate U.S. WTO obligations that require "parallelism" if he were to impose a remedy that restricts only non-NAFTA imports.
- The ITC's remedy recommendation assumes as part of its economic model that Mexican and Canadian imports will be subject to the measure; the recommendation of a 13% tariff reflects that fact. *See* ITC Final Report at 390-91 and sources cited therein. If Canada and

Mexico are excluded from the remedy, then the fundamental premise of the recommendation is changed. Without thoroughly revising the economic model, the effects of any tariff would be unknowable. Essentially, excluding NAFTA and applying *any* remedy would be utterly without economic basis.

- Notwithstanding the claims of Mexican respondents, *see Comments of Empresas Riga, et al.*, Jan. 4, 2002, the NAFTA requirement that Canada and Mexican receive compensation cannot be dispositive with regard to the President's determination.

- This issue can be avoided if no restrictions are imposed on any imports.

- The United States obviously envisioned that compensation would sometimes be paid in Safeguards actions to NAFTA members. The threat of being required to pay compensation should not affect whether the domestic industry is afforded a remedy truly necessary to address serious injury if Canada and Mexico contributed importantly to that injury.

- A remedy period greater than 3 years requires trade compensation for *all* WTO suppliers.

- Any compensation paid would be insignificant. Based on 2000 imports of \$72,231,000 (Canada) and \$35,518,000 (Mexico), ITC Final Report at Table TUBULAR-8, a 13% tariff in 2002 would impose a compensation obligation of only \$14 million, a trivial sum within the context of trade between Canada/Mexico and the United States. Any compensation in subsequent years would be even smaller as the tariff level was reduced.

IMPORTER INVENTORY LEVELS DO NOT JUSTIFY IMPOSITION OF A REMEDY

- Boltex, National Flange, and Weldbend (collectively, “Boltex”) assert that several years of high tariffs are necessary because there are “overhanging importer inventories” of flanges and fittings. *Comments of Boltex, etc.*, Jan. 4, 2002, at 9 n.5. At a meeting on January 10, 2002, the TPSC asked Allied to address this claim in these response comments.

- Boltex cites no data whatsoever in support of its claim. The data collected by the ITC, in contrast, shows that the ratio of U.S. importers’ end-of-period inventories to shipments of imports for Jan.-June 2001 was not only lower than the ratio for Jan.-June 2000, but also lower than the ratio for any full year from 1996 through 2000. *See Steel*, Inv. No. TA-201-73 (Dec. 2001) (“ITC Final Report”) at Table TUBULAR-39.

- If Boltex is suggesting that the TPSC ignore the ITC report and rely instead on *ex parte* data submitted by Boltex for a period subsequent to the record developed by the ITC, that is plainly a violation of the law. Such evidence would be, at best, inferential, incomplete, and unrepresentative of the market as a whole. The President may not base his remedy decision on suspect data that was not provided to the ITC and that cannot be verified or determined to be representative, particularly if that data purports to contradict the data carefully collected (from over 40 importers) and considered by the Commission.

- Allied is obviously not in a position to canvas its competitors to obtain data on their current inventory levels. (Obviously, domestic producers could not do so, either.) As requested by the TPSC, however, Allied is attaching to this submission data on its own month-end inventories for the period January 2000 - December 2001. The data show that Allied--one of the largest master distributors of flanges and pipefittings in the United States--does not, in fact, have any “overhang” of inventories of these products.

THE STEEL CRISIS DOES NOT JUSTIFY IMPORT RESTRICTIONS ON
FLANGES AND FITTINGS

- Allied agrees with the members of the domestic flanges and fittings industry on one point: these products are not like the others being considered by the President as part of this case. *See, e.g., Comments of Boltex, etc.*, Jan. 4, 2002, at 6-7.
- Flanges and fittings are not steel products, and the domestic industry is not in crisis. There are no legacy costs here, no bankruptcies, no global overcapacity issues. The industry is far less capital intensive than the real steel industries at issue. *No* domestic participant in this product category actually makes steel; at most, these firms make things *out of* steel.
- Many domestic flange and fitting industry members are not manufacturers at all, but instead are finishing businesses, machine shops that import unfinished flanges or fittings made from foreign steel and perform a minimal amount of machining to the forging.
- The U.S. industry is already recovering from any injury imports may have caused. Demand for flanges and fittings, sales prices, and operating margins of U.S. producers all dramatically increased in the first half of 2001, the most recent period for which the ITC collected data. *See Comments of Allied Fitting*, Jan. 4, 2002, at 2.
- For these reasons, the President should impose no remedy on these products. If import restrictions are imposed, however, the President could achieve the goal of restoring the domestic industry's market share by imposing a TRQ based on 1998-2000 import levels, plus a 13% tariff on over-quota imports. *See Comments of Allied Fitting*, Jan. 4, 2002, at 3. At worst, he should impose on all suppliers, including Canada and Mexico, a tariff not to exceed 13 percent, as recommended by four members of the Commission.

EXHIBIT A**ALLIED FITTING, L.P. INVENTORY**

MONTH	YEAR	TOTAL INVENTORY
DECEMBER	2001	
NOVEMBER	2001	
OCTOBER	2001	
SEPTEMBER	2001	
AUGUST	2001	
JULY	2001	
JUNE	2001	
MAY	2001	
APRIL	2001	
MARCH	2001	
FEBRUARY	2001	
JANUARY	2001	
DECEMBER	2000	
NOVEMBER	2000	
OCTOBER	2000	
SEPTEMBER	2000	
AUGUST	2000	
JULY	2000	
JUNE	2000	
MAY	2000	
APRIL	2000	
MARCH	2000	
FEBRUARY	2000	
JANUARY	2000	